

March 4, 2002

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room: TW-A325
Washington, DC 20554

Re: **Ex Parte Letter**
*Establishment of Rules and Policies for the Satellite Digital Audio Radio
Service in the 2310-2360 MHz Band, IB Docket No. 95-91*

Dear Mr. Caton:

On March 4, 2002, Bob Kelsch, President & CEO, of BeamReach Networks, sent an email letter to Chairman Powell outlining BeamReach's interest in the SDARS matter highlighted above. Copies of this letter were also furnished to the Commissioners and their staffs.

The letter, attached here, outlines BeamReach's concern about the effect of the debilitating interference caused by high powered repeaters deployed by SDARS operators in the bands adjacent to WCS. As a vendor focused on providing equipment for broadband wireless access in the WCS band, BeamReach has invested significant resources in realizing a broadband system that conforms to the exacting requirements set forth for this band. BeamReach has urged the Chairman to consider the options submitted by the WCS Coalition, of which BeamReach is a member.

Respectfully submitted,

/s/
Randall C. Schwartz

Director of Business Development
BeamReach Networks, Inc.

March 4, 2002

The Honorable Michael K. Powell,
Chairman,
Federal Communications Commission,
445 12th Street, S.W.,
Washington, D.C. 20544

Dear Chairman Powell,

BeamReach Networks is a privately-held company that has developed a revolutionary new technology that will, for the first time, make it economical to provide 2-way broadband wireless access ("BWA") using spectrum in the Wireless Communications Service ("WCS") band. My company has invested over \$40M developing this product and plans to begin trials with Verizon in the second quarter of this year. We made this investment with the expectation that the WCS band will be protected from harmful interference. Our BWA technology will permit companies such as Verizon and Bell South (both WCS licensees) to provide broadband access to their many customers who are not within 18,000 feet of a central office (the limit of Central Office based DSL access). Furthermore, other service providers will be able to use the WCS band to offer a competing service to DSL or cable modems. This is in direct support of the Commission's policies to encourage the deployment of broadband services, to increase the ubiquitous availability of access to previously underserved areas, and to stimulate facilities-based competition.

Unfortunately, however, licensees in the Satellite Digital Audio Radio Service ("SDARS") band have been permitted to erect terrestrial repeaters with very high powers – up to 40 kW - under a Special Temporary Authorization. Since the SDARS band is immediately adjacent to the WCS band, the resulting interference in the WCS band would relegate the WCS licensees to secondary status in their own band. This leaves the WCS licensees with two equally untenable choices. Either leave large exclusion zones around the terrestrial repeaters, thus eliminating most of the market, or use expensive filters in the WCS customer premise equipment ("CPE") to reduce the impact of the interference. BeamReach Networks has already included expensive filters in its base station equipment to comply with FCC rules protecting SDARS. We've looked extensively at the feasibility and cost of incorporating additional filtering in our CPE, and determined that the cost would make WCS economically unviable.

The Commission is currently considering a permanent rule to permit the operation of high powered SDARS repeaters, and we are very concerned that such a ruling will make the WCS band unusable for broadband wireless access. BeamReach Networks and other WCS proponents have proposed various options, such as power limits, that would allow both services to operate in the band. I urge the Commission to select one of these options in its final ruling and create a level playing field between the two services. To do

otherwise would make the WCS band economically unviable for broadband access and erode the substantial investments that my company and others have made in this important technology.

Sincerely,

Robert G. Kelsch
President and CEO
BeamReach Networks, Inc.